

## CAAAC MEETING NOTES 5/13/08

Compiled by Oline Barta

**ATTENDEES:** Don Quander, *Holland and Hart, LP*, Dexter Busby, *Montana Refining Company*, Stacy Aguirre, *WBI Holdings*, Hal Robbins, *Bison Engineering*, Brian Hohn, *Hohn Engineering*, Jim Parker and Ken Morrison, *PPL Montana*, Gail Abercrombie, *Devon Energy*, Don Allen, *WETA and CHS*, Bud Clinch, *Montana Coal Council*, *Russ Boschee, Yellowstone County*, Jason Boeckel, *Smurfit Stone*, Dave Galt, *Montana Petroleum Association*, Anne Hedges, *Montana Environmental Information Center* and Kathy Dolan, *US EPA*, via conference phone. DEQ attendees were: Eric Merchant, Dave Klemp, Tina Engel, Chuck Homer, Moriah Peck, Jenny O'Mara, Dave Aguirre, Dan Walsh, Elton Erp, Bob Habeck, Deb Wolfe and Oline Barta. (In the following notes, names of CAAAC members asking questions will be bolded.)

**INTRODUCTIONS/WELCOME:** Dave Klemp gave a welcoming address. He spoke of the new structure in ARMB, mentioning that compliance and permitting were coordinating their work better and that the new Guidon system would further streamline our operation. He explained the transition that occurred after Don Vidrine retired. After Dave, became Bureau Chief, Chuck took his position and is mentoring the young bureau members. Bob Habeck is now in Chuck's old position as Planning Program manager. Eric Merchant would now be the "new face" of CAAAC and work with rule changes.

**FISCAL YEAR 2009 FEE RULE:** Eric began his Power Point presentation by saying the existing fee structure includes a portable source and registration administrative fee of \$600, an annual stationary source administrative fee of \$500 and a stationary source operating fee of \$29.96/ton. Fee changes for the upcoming year will include: a stationary source administrative fee increase from \$500 to \$600/year and the FY2009 operating fee will increase to \$31.29/ton. Also included is an incremental increase in the ARMB cash balance fund which will eventually support program operations for the entire fiscal year without a negative fund balance.

The increase of the stationary source administrative fee from \$500 to \$600 will make this fee consistent with the current administrative fee for portable and registered sources and will generate approximately \$30,000 of revenue while decreasing the cost per ton operating fee for stationary sources. The basis for the increase of the operating fee is an increase of appropriation for FY2009, a decrease of carryover from FY2008 and the proposed increase of the cash balance from \$100,000 to approximately \$113,000. Eric closed his presentation by offering to email related information to those interested.

**Ken Morrison** asked about a fiscal spreadsheet he had seen in the past and wondered if it could be made available again. Tina Engel and Eric offered to email the spreadsheet and his presentation summary to anyone interested. **Don Quander** thought maybe the CAAAC members who weren't here today may also be interested. Eric offered to use the CAAAC list serve including any new members from today's sign up sheet. **Dexter Busby** asked if the decrease in carryover was because ARMB was now at full employment. Tina responded that is was. **Don Quander** asked if any additional EPA funding would be available. Kathy Dolan replied via speaker phone that she was not aware of any major changes to 105 and 103 grants.

**Don Allen** asked what amount our request for appropriations would increase for the next biennium. Chuck responded that final numbers were not available yet. Dave Klemp reiterated that we could not comment on a process that was not completed. **Don Quander** had attended yesterday's EQC meeting and was wondering why we were not requesting an FTE for climate change. Dave Klemp answered that we are not yet sure of how we will be involved in the climate change initiatives. If it becomes a regulatory issue, then we will probably be involved. **Don Quander** also asked what the assumption was

for total tons of pollutants either rising or falling. Tina Engel responded that there was an increase of 3,000 tons of pollutants this year. **Dexter Busby** asked if Title V sources had increased. Dan Walsh said that we were staying at about 65-75 facilities. Mr. Busby also asked what the increase was for the open burning fees. Eric Merchant stated that he did not include open burning fees in his focus for this group. Tina stated that the actual smoke management/open burning budget is \$77, 278 as opposed to \$46,000 last year.

**Don Quander** asked if the registration fees coming in now were enough to fund the operation of the registration program. Dave Aguirre responded that we are up and running, working through the backlog of oil and gas facilities and that we did collect fees this year. Chuck Homer said that this year there were a lot of set-up costs, but the program was intended to be self supporting. **Dexter Busby** asked if ARMB was getting the expected response from the oil and gas companies. Dave Aguirre reported that his section was just now doing field verification of unregulated sources and would notify companies of facilities that should be brought into the registration program.

**GUIDON PRESENTATION:** Dave Klemp commented that the Guidon system has been bringing exciting changes to the Bureau in an effort to streamline the air permitting process. Legislative sessions have always wanted to improve our process. We already have one of the faster statutorily-required processes in the nation, but there is always room to improve efficiency. We wanted to have someone come in and help us to find legitimate shortcuts and improve customer service.

Moriah Peck started her presentation by saying that the Guidon company we hired used “Kaizen” methodology. Kaizen is a Japanese word meaning continuous improvement. The results are immediate and do not require large capital expenditures. They use a team process which develops clear objectives with a tight focus on time. She went on to explain the process which worked to identify bottlenecks and find ways to eliminate them. She explained the event details where the team mapped out the current permit process using sticky notes on the wall and eventually came up with a streamlined process. Moriah talked about the composition of the team and said that the scope of the event was limited to new applications and modifications for preconstruction permits. Two of the main goals were to reduce time and paper while improving permit quality. Some of the success will be measured by days reduced from the permit-processing time, reduced permit rework and registration backlog.

Jenny O’Mara continued the presentation by explaining the analysis of the current process and that the number of steps and handoffs were cut by over half. Different permit tracking systems have been consolidated. The biggest change will be the electronic processing and filing of permits. Peer reviews will increase consistency in permits and help train new staff. Updated and simplified permit application forms should reduce the amount of incomplete applications. Permit writers will do their own data base entry. Piloting efforts are underway for the new permitting process which is planned to be in use by the end of month. New application forms should also be ready this month. Jenny said that we plan to use this kaizen process to streamline other areas of our bureau.

**Gail Abercrombie** asked whether email changes might pose a problem with information reception. Jenny responded that applications should have current information and email receipts can be used. **Dave Galt** asked about the cause of incomplete applications and if there would be protocols available for online applications. Jenny O’Mara did not think there was one item that was consistently incomplete and Moriah Peck noted that the applications were not as clear as they could be. Chuck Homer stated that we are not yet going to online applications though we probably would in the future. Right now we are looking at emailing electronic versions of the permit. Dave also asked what caused the delays in the permitting process. Moriah answered that the Guidon process eliminated many of the unnecessary delays, but some would still remain because of the permitting work load.

**Don Quander** said that he was really impressed with these efforts to streamline the permitting process. He asked if any of the changes would involve rulemaking. Jenny O'Mara stated that right now it was just an internal process. Dave Klemp also added that any rulemaking would involve stakeholders. Don thought that the stakeholders might be able to provide valuable input as the process moves forward. Don also wondered about MEPA as a potential bottleneck. Moriah responded that the Department is aware of the issue, but these types of things were beyond the scope of the initial project. Chuck commented that we could improve communications with other programs. Dave Klemp commented that "the beauty" of the new system was that it would spotlight problems as we went along. As we become efficient experts, stakeholders will know that any additional staff requests would really be necessary. **Hal Robbins** stated that he thought this system was great and may consider using it in his business. **Don Quander** thought that others including the DEQ oversight committee would be impressed with the Guidon system and asked if ARMB had any plans to share this information. Dave Klemp responded that next week we would be presenting it to the Department. **Dexter Busby** asked if information on the Guidon process could be made available to CAAAC members and Eric Merchant responded that he would do so.

## NEW AMBIENT AIR MONITORING STATION

Eric introduced Dave Aguirre to present information about a new ambient air monitoring station in eastern Montana. Dave said the station would be located 20 miles west/northwest of Sidney. The monitor should be up and running by August 1, 2008 and collect data for one calendar year. Targeted pollutants would include Ozone, NO<sub>x</sub>, PM<sub>2.5</sub> and PM<sub>10</sub>. Meteorological parameters to be monitored include wind speed, wind direction, temperatures and net radiation. Dave said the purpose of the station was to characterize air quality conditions of the area which has seen some rapid and significant development. It will provide more accurate information than estimates and be used in permitting actions that require modeling. Dave was asked if the audience could have a data fact sheet with this information and he promised to provide one.

**Don Quander** asked for clarification on how the data would be used. Dave Aguirre responded by saying that it will be important to know what is "out there" in that area. What we find may also determine how it is used. Dave Klemp also mentioned that the BLM is conducting an EIS on Coalbed natural gas as well as traditional oil and gas areas. He believes it is to our advantage to check the background before it is changed by oil and gas development and develop procedures to impact a problem before it occurs. The BLM EIS was based on modeling.

## RULE DEVELOPMENT UPDATE

Eric Merchant prefaced his remarks on Rule Development by saying that the rule projects he was working on were for the next 12-18 month time period.

1. The IBR rule is annually updated, but this year we are proposing to add a provision within the rule that allows for automatic removal of vacated federal rules.
2. Eric next mentioned updating the registration rules to include specific requirements for certain natural gas compressor engines/stations which meet the statutory definition of an oil and gas well facility.
3. Eric said they are also working on getting regulations in place for small public institutional wood-fired boilers regardless of PTE. Concern has been raised over the influx of these types of emission sources. **Brian Hohn** asked if we were going to look at outdoor hydronic-type heaters as well. Eric said yes.
4. Another change ARMB is considering is the concurrent-submittal application requirement for Title V facilities. Now the requirement is that the Title V application be submitted concurrently with the preconstruction permit application. This causes a lot of problems with time frames.

5. Eric went on to discuss a repeal of the “automatic stay” in open burning and other existing rules. The statute does not require a stay unless ordered by the BER and this change would bring the affected rules in line with statutory requirements.
6. ARMB is also considering rule development to provide a registration program for portable non-metallic mineral processing plants in lieu of permits.
7. Another consideration is the incorporation of language clarifying Department discretion in moving/relocating wood waste.
8. Eric indicated that federal rules specific to the regulation of PM<sub>2.5</sub>, and likely greenhouse gases, are forthcoming and that the ARMB will address these rules as they are promulgated.

**Dexter Busby** mentioned that an NSPS just went final and asked if that was incorporated by reference. Eric said yes, but there would be a lag time. Chuck Homer said that as soon as the CFR is published, it is final. **Jim Parker** asked what the new time frame would be for Title V applications instead of being submitted simultaneously with preconstruction permits. Eric replied he thought the federal rules specified within a year after the start of operations and ARMB agreed with that time frame. Dave Klemp pointed out that we waste a lot of time working on Title V applications for facilities that are never built. **Gail Abercrombe** asked for a clarification of the compressor station registration rule change. Eric and Chuck Homer responded that we were not changing the statute just the rule. Some compressors are not used in transmission just in gathering and thus fit the statutory definition of an oil and gas well facility. These facilities would be eligible for registration in lieu of permitting; however, the ARMB must develop source-specific registration rules to effectively regulate these sources. **Jim Parker** asked if any of the rules had a time frame yet. Eric said the only rules with a time frame were the IBR and Fee rule. Others are just in the works.

## SUMMARY OF RECENT CONTESTED CASE DECISIONS

Eric Merchant spoke about two contested cases, Thompson River Co-Gen and Southern Montana Electric – Highwood Generating Station. In the case of TRC and the appeal of Permit #3175-04, the BER issued a proposed order but it has not been finalized. In the SME-Highwood case and the appeal of Permit #3423-00, the Department has seen only a transcript and not a proposed order at this point. Eric read a brief statement concerning the two contested cases. (The statement is available on the CAAAC webpage.)

**Don Quander** asked about whether the EPA would allow the states discretion in the transition period for the rule that it has just published on PM<sub>2.5</sub> to allow them to decide when they use PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub>. Dave Klemp said he didn’t know what the BER would take up. We will be watching the situation very closely. Concerning TRC, Don asked what analysis is the Department required to do and what will be the effect on other facilities. Chuck Homer said we were addressing emission limits with facilities during startup and shutdown. Dave Klemp mentioned that the issue of emission limits during start-up and shutdown is going on within the region and probably nationally as well. Eric noted that the other issue with TRC is that they are allowed to burn coal with a sulfur content that could theoretically result in a NAAQS violation if emissions are uncontrolled. We’ve been asked to address that. Don requested that the CAAAC group be kept informed with updates on effects from this case on other facilities. Don went on to ask if there was any process report on BART or visibility issues. Chuck responded that, at least with the FIP requirement, we have a compliance role. **Dexter Busby** asked for a point of clarification concerning Title V modifications. Chuck responded that we would have a role in enforcing Title V requirements either through the SIP or through BART within the Title V program. The details have not been worked out yet, but we will have a compliance role.

## QUESTION AND ANSWER, ADDITIONAL BUSINESS

Eric asked for questions or other business. **Don Allen** asked for clarification the about the rulemaking for PM<sub>2.5</sub>, regarding NSR. Eric said that there were final issues that need to be resolved and those were proposed in a rulemaking effort, the increment, significance impact levels, significant monitoring concentration and also some of the testing methods that were discussed in this final rule. We expect that when these rules go final the agency will have additional tools we can use to develop our rules. We are essentially waiting for the NSR rules to be finalized.

**Hal Robbins** asked for clarification about PM<sub>2.5</sub> replacing PM<sub>10</sub> as the NSR pollutant. Eric said we don't know what will happen yet. Chuck Homer said that the permitting requirements and the BACT requirements are still in effect. There was a requirement that affected facilities start monitoring mercury by January 1, 2009, but that deadline is gone. The facilities will still have to begin mercury monitoring, but the provisions will be implemented through the permit. We will still be referencing the previous monitoring requirements, but it will be a permit condition. **Anne Hedges** asked for further clarification. Chuck responded that a requirement of the vacature was that it would go back to the previous rule which would be a case by case MACT. It is the Department's legal opinion that the case by case MACT may change if the court schedules a hearing (for EPA). Dave Klemp pointed out that Section 112g of the Clean Air Act applies, but Section 112j doesn't because power plants were not part of the original listing for MACT. **Hal Robbins** asked for further clarification on how to proceed with new permits in light of the upcoming changes. Dan Walsh explained that at this point facilities are subject to the rule, because of how we have it incorporated by reference. If the new IBR rule is published in September, that requirement would go away. He would send out a letter to affected facilities.

Eric asked for any other comments and with **Kathy Dolan** acknowledging the frustration the comes form changes in EPA rules, the meeting was adjourned